

SENATE CHAMBER,
AUSTIN, TEXAS, April 23, 1873.

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the Rev. Dr. Rogers.

On motion of Senator Hall, the reading of the journal of yesterday was dispensed with.

On motion of Senator Dohoney, the journal of yesterday was corrected.

A message was received from the House informing the Senate that the House had passed the following bills:

House bill No. 756, "An act to incorporate the Board of Trustees of the Centreville Academic School."

House bill No. 756, "An act to authorize Denton county to levy a special tax to build a court house."

House bill No. 749, "An act to authorize the county courts of Chambers, Orange, Newton, Polk, Hill and Houston counties to issue interest-bearing bonds for the purpose of funding the outstanding indebtedness of said counties."

House bill No. 744, "An act to authorize the Police Court of Hunt county to collect a special tax."

House bill No. 747, "An act to authorize the County Court of Freestone county to levy and collect a special tax to repair the court house and jail in said county."

House bill No. 748, "An act to incorporate the Texas and European Beef Company, of Galveston, Texas."

Senator Tracy presented the following petition:

To the honorable the Senate and House of Representatives Thirteenth Legislature of the State of Texas:

We, the undersigned teachers of Harris county, do most respectfully represent to your honorable bodies, that having received nothing for our services since the month of May, 1872, and most of us being entirely dependent on our salaries as a means of subsistence, we are therefore in distress, while many of us are in destitute circumstances.

In view of these facts, we most earnestly petition the Legislature to take into immediate consideration our de-

plorable condition, and devise some means for our speedy relief.

MRS. S. B. GOVE,

Head Teacher Gregory Institute.

MARY H. MARSHAL,

Second Assistant Gregory Institute.

M. A. GILBERT,

Third Assistant Gregory Institute.

C. BRAUN,

Head Teacher.

EDITH TRIPLETT,

Assistant Teacher.

M. HAMMEL,

Teacher of Third Ward.

CARRIE TOVELL,

Assistant Third-Ward School.

MRS. M. J. YOUNG,

Principal of Schools.

K. R. JONES,

First Assistant.

C. L. GILLESPIE,

Second Assistant.

S. G. YANCEY,

Third Assistant.

MRS. H. M. ABBEY,

MRS. L. M. NOBLE,

MRS. E. W. NEYLAND,

MISS KATE DILLON,

First Assistant.

MRS. FRANCES CARLEY,

Second Assistant.

MRS. MARY C. HALSEY,

Harrisburg School.

MRS. C. M. DUNBAR,

Assistant, Harrisburg School.

A message was received from the House informing the Senate that George W. Smith of Colorado had been added to the committee of Managers in the case of the State against John G. Scott.

Senator Finlay, chairman of Judiciary Committee No. 2, reported as follows:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 274, to be entitled "An act to

amend an act to reorganize the town of Bryan, in Brazos county, and incorporate said town as the city of Bryan, approved November 29, 1871," having carefully considered the same, I am instructed to report it back to the Senate and recommend its passage, with the following amendments:

Amend section one, line six, after the word "peace," and before the word "violation," by inserting the words "and a."

Amend same section, lines seven and eight, by striking out the words, "and a violation of any criminal law of this State."

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Judiciary No. 2, to whom was referred House bill No. 462, to be entitled "An act to validate the acts of J. W. Irwin as county surveyor of Navarro county," having carefully considered the same, I am instructed to report it back to the Senate and recommend that it do pass.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Judiciary No. 2, to whom was referred House bill No. 238, to be entitled "An act to authorize the levy of writs of execution, attachment and sequestration on neat cattle as they run in the range," having carefully considered the same, I am instructed to report it back to the Senate with the recommendation that it do not pass.

GEO. P. FINLAY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 210, to be entitled "An act to incorporate the town of Whitesboro, in Grayson county," having carefully considered the same, I am instructed to report it back to the Senate and recommend its passage, with the following amendments:

In section three strike out the following words, "He shall have such criminal jurisdiction within the limits of the corporation as is conferred by law upon justices of the peace, charging like fees for his services, and subject in his judicial acts to the same revisory powers."

Amend section four by striking out all after the word "peace," in line six, and inserting the words "who shall

within ten days after the election deliver to the mayor, aldermen, and other officers elected under the charter, certificates of election, preserving an account of his proceedings therein among the records of his court."

GEO. P. FINLAY, Chairman.

Senator Flanagan, chairman of the Committee on Internal Improvements submitted the following reports :

Hon. E. B. Pickett, President of the Senate :

SIR: Your committee to whom was referred Senate bill No. 203, entitled "An act to incorporate the St. Louis and Mexican Gulf Railroad, and to grant land in aid of the construction thereof," having had the same under consideration, beg leave to report the accompanying bill, which they report as a substitute, and recommend that it do pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate :

SIR: Your committee to whom was referred House bill No. 664, entitled "An act to amend section three of an act to incorporate the Falls County Turnpike Road and Bridge Company," having duly considered the same, report it back and recommend its passage.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate :

SIR: Your committee, to whom was referred Senate bill No. 292, entitled "An act to incorporate the Sherman, Tyler and Henderson Railroad Company, and to grant lands to aid in the construction thereof," having duly considered the same, report it back to the Senate, with the following amendments, and recommend that it do pass.

WEBSTER FLANAGAN, Chairman.

1. Strike out "chief justice" wherever it occurs and insert "presiding justice."

2. Amend section eight by inserting after the word "Greenville," in line eleven of said section, the following words: "and within one-half mile of said court house in the town of Greenville; *provided*, the citizens of said town shall donate the necessary lands for depot purposes."

3. Amend by inserting after the word Tyler, at end of line twelve, section eight, by inserting the following: "and within one mile of the court house of Emory, in Raines county."

Hon. E. B. Pickett, President of the Senate :

SIR: Your committee, to whom was referred House-

bill No. 577, a bill to be entitled "An act supplemental to an act to incorporate the Western Narrow Gauge Railway Company," having had the same under consideration, report the same back to the Senate, and recommend that the same do pass.

WEBSTER FLANAGAN, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your committee to whom was referred Senate bill No. 274, "An act to validate and supplement the charter of the Bastrop Coal Company of Texas," having duly considered the same, report it back and recommend its passage with the following amendment:

Strike out all after the word "valid," in seventh line of section one, to end of section.

WEBSTER FLANAGAN, Chairman.

Senator Avinger, chairman of the Committee on Counties and County Boundaries, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 133, "An act to accurately define the land district of Palo Pinto, and to make valid the surveys and locations heretofore made therein," beg leave to report that they have carefully considered the same, and instruct me to report it back, and recommend that it do pass.

H. J. AVINGER, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 23, "An act to create and provide for the organization of the county of Gregg," have maturely considered the same, and instruct me to report it back and recommend that it do pass.

H. J. AVINGER, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 538, "An act to establish and organize the county of Neches," have duly considered the same, and I am instructed to report it back and recommend that it do pass.

H. J. AVINGER, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Counties and County Bound-

daries, to whom was referred House bill No. 114, "An act to be entitled an act to amend the first section of an act entitled an act to provide for the creating of two counties out of the territory now embraced within the limits of Refugio county, and to provide for their organization, passed September 18, 1871," have maturely considered the same, and have instructed me to report it back and recommend that it do pass.

H. J. AVINGER, Chairman.

Hon. E. B. Pickett, President of the Senate:

Sir: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 536, "An act to change and define the boundary line of Trinity county, and to provide for the farther organization of the same," have duly considered the same, and instruct me to report it back and recommend that it do pass.

H. J. AVINGER, Chairman.

Senator Swift, chairman of the Committee on Claims and Accounts, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

Sir: Your Committee on Claims and Accounts, to whom was referred the memorial of Quilla J. Nichols, having had the same under careful investigation, and taken testimony relative thereto, instruct me to report as follows:

1. That although the cost of building the Land Office was over \$30,000 in excess of the price received by the memorialist, as he received the full amount for which he agreed to do the work according to the specifications, your committee do not feel justified at this late day in disturbing the contract by awarding a larger sum than that for which the petitioner tendered and offered to do the work.

2. It appears to your committee, in regard to the claim of petitioner for \$10,618. extra work, after hearing the testimony of the commissioners, and a careful examination of the contract and specifications, that some of such items, amounting in the aggregate to the sum of \$4935, are included in the specifications, but that the items included in the schedule hereto annexed and marked "A," and made a part hereof, are not covered either by the contract or specifications; and as they were done by order of the commissioners, and were rendered necessary by the specifications which called for flues in the walls the

same width as the walls themselves, necessitating the walls to be of increased thickness, they were extra work, and are a proper charge against the State for which petitioner should be paid, and from the testimony of practical workmen, adduced before your committee, the prices charged therefor, amounting in the aggregate to \$5683, specie, or $\$6705\frac{24}{100}$, currency, were fair and reasonable at the time the work was performed.

Your committee, therefore, recommend that relief to the amount of $\$6705\frac{24}{100}$ be granted to said Nichols, and instruct me to report back the accompanying bill to that effect, and to recommend that it do pass.

W. H. SWIFT, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Claims and Accounts, to whom was referred House joint resolution No. 729, have had the same under careful consideration, and I am instructed to report it back to the Senate, and recommend its passage.

W. H. SWIFT, Chairman.

Senator Dillard, chairman of the Committee on Printing, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Printing, to whom was referred House joint resolution No. 484, in relation to printing railroad charters, having carefully considered the same, instruct me to report it back and recommend that it be adopted.

JAS. E. DILLARD, Chairman.

Senator Word introduced "An act to authorize the judge of the Tenth Judicial District to hold a special term of the district court in Anderson county."

The bill was read first time, and on motion of Senator Word the rules were suspended, the bill read second time; rules further suspended, bill read third time and passed.

Senator Dohoney introduced a bill to be entitled "An act to amend section two of an act entitled an act concerning divorce and alimony, approved January 6, 1841." Read first time and referred to Committee on Judiciary No. 1.

By leave, Senator Cole submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Private Land Claims, to

whom was referred Senate bill No. 248, to be entitled "An act to empower the Commissioner of the General Land Office to issue to Willet Holmes a headright certificate of one league and labor of land," having considered the same, instruct me to report it back and recommend its passage.

D. W. COLE, Chairman.

Senator Flanagan introduced a bill to be entitled "An act making an appropriation for the payment of the State police and employes." Read first time; rules suspended, read second time; rules further suspended, read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Broughton, Cole, Dohoney, Ford, Finlay, Flanagan, Fountain, Franks, Hall, Henry, King, Latimer, Pyle, Randle, Ruby, Saylor, Sayers, Swift, Tendick, Tracy, Word and Mr. President.

—24.

Nay—Senator Dillard—1.

Senate bill No. 246, "An act to amend an act to organize the courts of justices of the peace and county courts, and to define their jurisdiction and duties, approved August 13, 1870, and to repeal so much of section three of said act as gives an appeal from justices' courts on judgments rendered in cases of forcible entry and detainer," was read second time and ordered engrossed.

Senator Dohoney moved a reconsideration of the vote taken on yesterday, indefinitely postponing Senate joint resolution No. 29, to appoint three commissioners to examine and report the most eligible site for the permanent establishment of the Agricultural and Mechanical College of Texas.

Senator Saylor moved to lay the motion on the table, which was carried by the following vote:

Yeas—Senators Broughton, Cole, Flanagan, Fountain, Franks, King, Latimer, Pyle, Randle, Saylor, Sayers and Tracy—12.

Nays—Senators Avinger, Baker, Dillard, Dohoney, Hall, Henry, Swift, Word and Mr. President—9.

Senate bill No. 140, "An act making an appropriation to defray the contingent expenses of the Thirteenth Legislature," was taken up and read second time; rules suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Ford, Finlay, Flanagan, Fountain, Franks,

King, Latimer, Pyle, Randle, Ruby, Saylor, Sayers, Swift, Tendick, Tracy and Word—22.

House bill No. 7. "An act to allow the present Chief Justice of the Supreme Court of this State to resign and retire from the bench with full pay for the residue of his term," together with the report of Judiciary Committee No. 1, recommending that the bill do not pass, taken up, and on motion of Senator Word, the report was adopted.

House bill No. 138, "An act to amend an act to dispense with the use of scrolls and seals in certain cases," was read second time; rules suspended, read third time and passed.

House bill No. 161, "An act to abolish the offices of supervisors and inspectors of public schools," was taken up, read second time and ordered to lie on the table until called up.

House bill No. 180, "An act to define and regulate the punishment of theft," was taken up, read second time, and on motion of Senator Franks, recommitted to Judiciary Committee No. 2.

Senator King, chairman of the Committee on Indian Affairs, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Indian Affairs, to whom was referred joint resolution No. 23, entitled "Joint resolution instructing our Senators and requesting our Representatives in Congress to urge upon the Federal government the propriety of removing certain tribes of hostile Indians from the frontier of Texas," having carefully considered the same, I am instructed to report it back to the Senate and recommend its passage.

HENRY C. KING, Chairman.

Senator Fountain moved a suspension of the rules to consider the report. Carried.

The resolution was read second time and ordered engrossed; rules suspended, read third time and passed.

The hour having arrived for the consideration of the special order, viz., Senate bill No. 296, "An act prescribing the times of holding general elections in this State," Senator Franks moved to postpone the same until 10:30 o'clock A. M. to-morrow.

Senator Fountain moved a call of the Senate. Call sustained.

Absent—Senators Evans, Gaines and Rawson.
Call suspended.

The motion to postpone the special order was then put and carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dohoney, Ford, Finlay, Flanagan, Fountain, Franks, Hall, Henry, Latimer, Pyle, Randle, Ruby Saylor, Sayers, Shelley, Swift, Tendick and Tracy—23.

Nays—Senators Dillard, Word and Mr. President—3.

House bill No. 369, "An act for the relief of the heirs-at-law of Thomas A. Culton," was taken up, read second time and indefinitely postponed.

Senator Franks moved a reconsideration of the vote just taken. Lost.

House bill No. 250, "An act to authorize Thomas M. Cain and W. J. Agee to construct a toll bridge across Sabine river," was read second time and passed to third reading.

House bill No. 382, "An act to repeal an act to legalize an ordinance adopted on the twelfth day of December, 1868, authorizing a special tax to be levied for the Waco Tap Railway in Falls and McLennan counties, approved June 18, 1870," was taken up, read second time, and, on motion of Senator Word, the bill was indefinitely postponed.

House bill No. 419, "An act to amend section one of an act concerning private corporations, approved December 2, 1871," was taken up, read second time, and on motion of Senator Avinger the bill was indefinitely postponed.

House bill No. 125, "An act to prescribe the mode and manner of designating exempted homesteads in certain counties," was read second time."

On motion of Senator Flanagan, the Senate took a recess for four minutes.

Recess expired. Senate met. Roll called; quorum present.

The hour having arrived, the Senate resolved itself into a high court of impeachment for the trial of John G. Scott, Judge of the Tenth Judicial District of the State of Texas.

The high court of impeachment met pursuant to adjournment; quorum present, and court opened by A. Faalkner, sergeant-at-arms of the Senate.

The prescribed oath was administered to Senator Baker. Senator Fountain submitted the following order:

Ordered. That the secretary inform the House of Repre-

sentatives that the Senate is now sitting as a high court of impeachment for the trial of John G. Scott, and that seats are provided for the accommodation of members of the House in the Senate chamber.

Order made by the following vote :

Yeas—Senators Avinger, Baker, Ball, Broughton, Dillard, Dohoney, Ford, Finlay, Flanagan, Fountain, Hall, Henry, Latimer, Pyle, Ruby, Sayers, Tendick, Tracy, Word and Mr. President—20.

The sergeant-at-arms announced the managers from the House of Representatives, who came within the bar of the Senate and were seated.

The sergeant-at-arms then made the following return, and took and subscribed the oath attached :

I, A. Faulkner, sergeant-at-arms of the Senate of the State of Texas, in obedience to the within and foregoing writ of summons and precept, to me directed, did serve, on the twenty-first day of April, 1873, the within summons, by reading the same to the within John G. Scott, and also by delivering to him in person a certified copy of the original articles of impeachment preferred against him by the House of Representatives of the State of Texas.

(Signed)

A. FAULKNER,

Sergeant-at-Arms.

I, A. Faulkner, sergeant-at-arms of the Senate of the State of Texas, do swear that the return made and subscribed by me upon the process issued on the twenty-first day of April, by the Senate of the State of Texas, against John G. Scott, Judge of the Tenth Judicial District of the State of Texas, is truly made, and that I have performed said service as therein described, so help me God.

(Signed)

A. FAULKNER,

Sergeant-at-Arms.

John G. Scott, Judge of the Tenth Judicial District of the State of Texas, being called to answer the articles of impeachment preferred against him, came forward in person, and by counsel, David Sheeks, and presented to the court the following answer :

The State of Texas, ss.—In the Senate of the State of Texas, sitting as a Court of Impeachment for the trial of John G. Scott, Judge of the Tenth Judicial District of the State of Texas: The answer of the said John G. Scott to the articles of impeachment exhibited against him by the House of Representatives of the State of Texas.

For answer to the said articles of impeachment, the said respondent respectfully excepts to each of said articles separately, for the reason that no one of them stated facts sufficient to constitute grounds for the impeachment of the respondent. And further answering, the said respondent says, that he denies each and every material allegation contained in each and all of said articles of impeachment.

(Signed)

SHEEKS & SNEED,
GOOD & BONNER,
ROBERTSON & HERNDON,
J. H. MANLEY,

Attorneys for Respondent.

Issue being joined, the managers on the part of the House of Representatives announced themselves ready to proceed with the discussion of the demurrer interposed by the defendant.

Whereupon the defendant, through his counsel, filed his application for a postponement of the discussion, as follows:

In the matter against John G. Scott.

To the President of the Court of Impeachment:

The respondent respectfully asks that the further consideration of the articles of impeachment herein be postponed until Monday, the twelfth day of May, 1873.

(Signed)

SHEEKS & SNEED,
of Counsel for Respondent.

On motion of Senator Shelley, the court retired to its retiring room to consider of the application.

The court having returned to the chamber made the following order:

Ordered, That a further consideration of the pending cause be postponed until eleven o'clock A. M., May 7, 1873.

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Finlay, Hall, Henry, King, Sayers, Shelley, Swift, Tensdick and Word—14.

Nays—Senators Baker, Broughton, Ford, Fountain, Franks, Ruby, Saylor and Tracy—8.

Senator Shelley submitted the following order:

Ordered, That process of subpoena be issued by the secretary of the Senate for such witnesses as may be named by the managers or the respondent, and that the same shall be executed by the sergeant-at-arms or any

officer of the State now authorized by law to execute process issuing from the Senate of the State of Texas, or any committee thereof.

Order made by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Ford, Finlay, Fountain, Franks, Hall, Henry, King, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—20.

The defendant, by his counsel, submitted the following application:

In the matter pending on the articles of impeachment against John G. Scott, Judge of the Tenth Judicial District of the State of Texas.

To the President of the Court of Impeachment:

The respondent, respectfully asks leave to amend his answer filed on the twenty-third day of April, 1873.

SHEEKS & SNEED, *et al.*,
Counsel for Respondent.

Granted by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Ford, Finlay, Fountain, Franks, Hall, Henry, King, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—20.

On motion of Senator Dohoney, the court adjourned until 11 o'clock A. M., May 7, 1873.

In Senate.

On motion the Senate adjourned until 10 o'clock A. M. to-morrow by the following vote:

Yeas—Senators Avinger, Dohoney, Ford, Hall, Henry, Shelley, Swift, Tracy, and Mr. President—9.

Nays—Senators Cole, Finlay, Fountain, Ruby, Sayers, Tendick and Word—7.

SENATE CHAMBER,
AUSTIN, TEXAS, April 24, 1873.

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Avinger, the reading of the journal of yesterday was dispensed with.

Senator Sayers introduced a bill entitled "An act to incorporate the town of McDade, in Bastrop county,